

REMARKS

Applicant acknowledges and appreciates the indication of allowability for claims 3-5, 7, 8, 10-12, 15 and 53-55. Claim 49 has been amended herein and is believed to be in condition for allowance along with the associated dependent claims 50-52.

The Office Action indicates that claim 49 is rejected under 35 USC §102(b) as anticipated by U.S. Patent 5,176,681 to Lawes, et al. It is stated that the '681 Lawes patent discloses a "positioning device (4) disposed in and being adjustable in a longitudinal passage to move the engaging member and compress or distract the bone fracture." It is respectfully submitted that screw 4 is merely a set screw that operates as an anti-rotation means to prevent rotation of lag screw 5. It is in fact the rotation of lag screw 5 that causes or creates any compression or distraction of the fracture. Although it would appear unnecessary, the Applicant has amended claim 49 to recite "a positioning device disposed in said longitudinal passage, the position of said device being adjustable along the longitudinal axis of said nail to longitudinally move said bone engaging member passing through said transverse opening and compress or distract said bone fracture." Referring to Fig. 1 of the '681 Lawes patent, it is clear that the outer diameter of lag screw 5 and the inner diameter of the transverse opening are substantially identical such that longitudinal movement of lag screw 5 along the longitudinal axis of the nail is not possible. This mechanism is clearly distinguishable from the claimed invention.

In view of the foregoing remarks and amendment, it is respectfully submitted that claim 49 and its associated dependent claims 50-52 are now in condition for allowance. Action towards a Notice of Allowance is hereby respectfully requested. If there are any questions, the undersigned would welcome a call to resolve any outstanding issues.

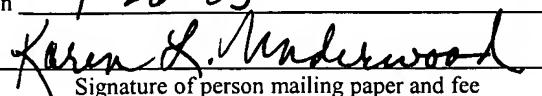
Respectfully submitted,


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